

MANAGEMENT DEPARTMENT[541]

Adopted and Filed

Rule making related to suspension and reinstatement of state funds

The Management Department hereby adopts new Chapter 13, “Suspension and Reinstatement of State Funds,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 8.6 and Iowa Code chapter 27A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 27A.

Purpose and Summary

The adopted rule making establishes procedures and guidelines to deny state funds to a local entity intentionally violating the provisions of Iowa Code chapter 27A and to reinstate eligibility to receive state funds when a local entity comes into compliance with Iowa Code chapter 27A. These rules establish the process by which the Department of Management receives a final judicial determination that the local entity is out of compliance with Iowa Code chapter 27A and is ineligible to receive state funds and state funds are denied. These rules also establish the process by which the Department receives the declaratory judgment that the local entity is in full compliance with Iowa Code chapter 27A and is eligible to receive state funds and state funds are reinstated.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 26, 2018, as **ARC 4008C**. A public hearing was held on October 24, 2018, at 9 a.m. in the State Capitol, Room 116, 1007 East Grand Avenue, Des Moines, Iowa. No one attended the public hearing. During the public comment period, 88 public comments were received. The theme of the comments was opposition to Iowa Code chapter 27A, as it removes local control from cities and counties, and it was argued that denial of funds would adversely impact communities. Upon review of all comments it was determined that none of the comments warranted a change in these rules.

The adopted rule making includes two changes from the Notice. Rule 541—13.1(27A), Definitions, was revised to add “or school districts” to the definition of “local entity.” The addition of this language was requested by the Administrative Rules Review Committee. In addition, references to 2018 Iowa Acts, Senate File 481, were replaced with references to the upcoming 2019 Iowa Code.

Adoption of Rule Making

This rule making was adopted by the Department on October 31, 2018.

Fiscal Impact

At this time it is not possible to estimate the total fiscal impact of Iowa Code sections 27A.9 and 27A.10 and 541—Chapter 13.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Waivers may be requested of the Department for any discretionary part of this rule making pursuant to Iowa Code chapter 17A.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on December 26, 2018.

The following rule-making action is adopted:

Adopt the following **new** 541—Chapter 13:

CHAPTER 13
SUSPENSION AND REINSTATEMENT OF STATE FUNDS

541—13.1(27A) Definitions. For purposes of this chapter:

“*City*” means a municipal corporation but does not include a county, township, school district, or any special-purpose district or authority.

“*County*” means an administrative subdivision in the state governed by a locally elected board of supervisors and may be comprised of subdivisions including cities, townships, school districts, or any special-purpose district or authority.

“*Declaratory judgment*” means a judgment issued by a district court declaring a local entity is in full compliance with Iowa Code chapter 27A.

“*Department*” means the Iowa department of management pursuant to Iowa Code chapter 8.

“*Final judicial determination*” means a district court ruling on a civil action brought by the state attorney general’s office finding a local entity to have violated the provisions of Iowa Code chapter 27A.

“*Fiscal year*” means the time period beginning on July 1 and ending the following June 30 as defined in Iowa Code section 8.36.

“*Governing body*” means the mayor and city council of a city or the board of supervisors of a county.

“*Local entity*” means the governing body of a city or county and includes an officer or employee of a local entity or a division, department, or other body that is part of a local entity, including but not limited to a sheriff, police department, city attorney, or county attorney. “Local entity” does include local city and county boards and commissions in which membership in the board or commission is the result of an appointment by the city council or the county board of supervisors. “Local entity” does not include local city and county boards and commissions whose membership is determined by election or is specifically set forth by the Iowa Code. “Local entity” does not include multijurisdictional boards and commissions in which a city or county is one of multiple local government members or school districts.

“*State agencies*” means any boards, commissions, or departments, as defined by Iowa Code section 7E.4, or other administrative offices or units of the executive branch of the state.

“*State funds*” means those funds held by the state that originate from revenues, fees or receipts collected by the state and distributed to local entities. Funds held by the state that are not defined as state funds include:

1. Federal funds (unless provided to the state and awarded as a grant by the state).
2. Funds paid out per gubernatorial or presidential emergency proclamation.
3. Any revenue collected and administered by the state on behalf of a local entity due to a locally imposed tax, fee or fine.

4. Any state funds for the provision of wearable body protective gear used for law enforcement purposes.
5. Payment for public protection, utilities, or goods and services.
6. Payment of settlements.
7. Setoffs as defined by Iowa Code section 8A.504.

541—13.2(27A) Denial of state funds. State funds shall be denied to a local entity pursuant to Iowa Code chapter 27A by all state agencies for each state fiscal year that begins after the date on which a final judicial determination that the local entity intentionally violated Iowa Code chapter 27A is made in a civil action brought pursuant to Iowa Code chapter 27A.8.

13.2(1) The department will send written notification to all state agencies to deny state funds. Payments will continue to be made to the local entity until the beginning of the state fiscal year that begins after the date on which a final judicial determination is made, at which time payments will be denied.

13.2(2) If the local entity receives state funds through the county, the department will notify the county so that any needed changes may be made to apportionment systems for property tax credits, exemptions and replacements.

13.2(3) State agencies will contact federal granting agencies in writing to determine how to administer federal funds when state match funds are denied. State agencies may be required to discontinue drawing federal funds or issue repayments as instructed by federal granting agencies.

13.2(4) Funds will continue to be denied until the court issues a declaratory judgment declaring that the local entity is in full compliance with Iowa Code chapter 27A.

541—13.3(27A) Reinstatement of eligibility to receive state funds. Upon issuance by the court of a declaratory judgment declaring that the local entity is in full compliance with Iowa Code chapter 27A, the local entity's eligibility to receive state funds is reinstated.

13.3(1) The department will send written notification to all state agencies to reinstate state funds. Payments will be reinstated to the local entity beginning on the first day of the month following the date on which the declaratory judgment is issued.

13.3(2) If the local entity receives state funds through the county, the department will notify the county so that any needed changes may be made to apportionment systems for property tax credits, exemptions and replacements.

13.3(3) State agencies will contact federal partners in writing to determine how to reinstate the drawdown of federal funds when state match funds are reinstated.

These rules are intended to implement Iowa Code chapter 27A.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/21/18.